

## REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed August 6, 2008 and the Advisory Action mailed October 22, 2008. At the time of the Advisory Action, Claims 1-6, 8-15 and 17-21 were pending in this Application. Claims 1-6, 8, 13-15 and 17-21 were rejected. Claims 9-12 were previously withdrawn due to an election/restriction requirement and Claims 7 and 16 were previously cancelled without prejudice. Applicant amended independent claims 1 and 14 to define that the contact surfaces are formed on one edge of each profiled sheet. This limitation is shown and disclosed for example, in Figs. 1-3 and associated description of the originally submitted specification. No new matter has been introduced. Applicants respectfully request reconsideration and favorable action in this case.

### **Rejections under 35 U.S.C. § 102**

Claims 14, 15 and 17 were rejected by the Examiner under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,794,800 issued to Rudolf Heinz (“Heinz”). Applicants respectfully traverse and submit the cited art does not teach all of the elements of the claimed embodiment of the invention.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, “the identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Applicants respectfully submit that the cited art as anticipated by the Examiner cannot anticipate the rejected Claims, because the cited art does not show all the elements of the present Claims.

None of the cited prior art discloses that the contacting elements are formed as profiled sheets each comprising a surface having opposing edges, wherein on one edge of the opposing edges of the profiled sheet there are first and second contact surfaces formed in said surface spaced at intervals from one another, wherein the surfaces of the profiled sheets are

bent such that the first and second contact surfaces press with a predetermined force on the piezoceramic to form an electrical contact.

Hence, Applicant believes that independent claim 14 is allowable in view of the prior art. Applicants respectfully submit that the dependent Claims 15, and 17-21 are allowable at least to the extent of the independent Claim 14 to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §102, if necessary, and do not concede that the Examiner's proposed combinations are proper.

### **Rejections under 35 U.S.C. §103**

Claims 1-6, 8, 13 and 18-21 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Heinz* in view of U.S. Patent No. 7,259,504 issued to Willibald Schürz et al. (“Schürz”) and U.S. Patent No. 6,316,863 issued to Carsten Schuh et al. (“Schuh”). Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Even if each limitation is disclosed in a combination of references, however, a claim composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR Int'l. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Rather, the Examiner must identify an apparent reason to combine the known elements in the fashion claimed. *Id.* “Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Finally, the reason must be free of the distortion caused by hindsight bias and may not rely on *ex post* reasoning. *KSR*, 127 S.Ct. at 1742. In addition, evidence that such a combination was uniquely challenging or difficult tends to show that a claim was not obvious. *Leapfrog*

*Enterprises, Inc. v. Fisher-Price, Inc. and Mattel, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007), citing *KSR*, 127 S.Ct. at 1741.

None of the cited prior art discloses that the contacting elements are formed as profiled sheets which have contact surfaces formed in a surface and on one edge of each profiled sheet and spaced at intervals from one another.

Hence, Applicant believes that independent claim 1 is allowable in view of the prior art. Applicants respectfully submit that the dependent Claims 2-6, 8, and 13 are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.

**Request for Continued Examination (RCE)**

Applicants respectfully submit a Request for Continued Examination (RCE) Transmittal, along with a Petition for One-Month Extension of Time. The Commissioner is authorized to charge any fees required to Deposit Account 50-2148 in order to effectuate these filings.

### CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants believe there are no further fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2545.

Respectfully submitted,  
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